

March 25, 2009

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TOWN OF NEW WINDSOR

PLANNING BOARD

MARCH 25, 2009

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN  
NEIL SCHLESINGER  
HOWARD BROWN  
DANIEL GALLAGHER

ALSO PRESENT: ERIC DENEGA, P.E.  
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER  
BUILDING INSPECTOR

MYRA MASON  
PLANNING BOARD SECRETARY

ADAM RODD, ESQ.  
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN  
HENRY SCHEIBLE

REGULAR\_MEETING

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MR. ARGENIO: I'd like to call to order the March 25, 2009 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited)

MR. ARGENIO: Welcome everybody. A couple things I want to hit first and then we'll get right on to it. Joining us tonight is Adam Rodd from Jim Loeb's firm, Dominic had a conflict tonight and Eric Denega from the firm of McGoey, Hauser and Edsall, Mark took a vacation, he's away for a week. The first item I want to tell everybody about and I say it with kind of a heavy heart is that it's been many years Myra has been with us and she's served the town and this board faithfully for many, many, many years and she has elected to take retirement. So she's going to be with us for a few more weeks and Jennifer is here as you see we have a two pronged attack hopefully Myra's going to steer Jennifer a little bit but I want to give her a heartfelt thank you for many years of service and Myra best of luck to you, she's been faithful many years, many, many, many years. We're all set. I'm missing Henry.

APPROVAL\_OF\_MINUTES\_DATED\_FEBRUARY\_25,\_2009

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MR. ARGENIO: First item on tonight's agenda is the approval of the minutes dated February 25, 2009 and they were sent out via e-mail trying to save paper on March 20, 2009. If anybody has read them and sees fit, I'll accept a motion we accept them as written.

MR. BROWN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

LEASE'S\_MOBILE\_HOME\_PARK

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MR. ARGENIO: First regular item on the agenda is the Lease Mobile Home Park, formally known as Windsor Enterprises.

Mr. John Lease appeared before the board for this proposal.

MR. ARGENIO: John, what's that known as now?

MR. LEASE: Windsor Enterprises.

MR. ARGENIO: Still Windsor Enterprises? Okay. I'm not going to waste a lot of time and a lot of words here but what I am going to do is very quickly the members have some of the photographs, this is the permit, special permit to operate has to be renewed every year as you're aware and thank you for coming in tonight, I certainly appreciate that. And I'm sure you're also aware that there's a litany of violations at that park?

MR. LEASE: Well, I think they were all cleared except for the electrical violations which the electric has been all repaired and turned on, will be turned back on tomorrow and the violation should be lifted. I sold all those units so there was garbage outside of the homeowners' trailers which I got cleaned up cause it's my property and the electric I think, I don't know if the electric was my responsibility to fix cause I sold all the units but I got it fixed, all done today, Central Hudson will turn it back on.

MR. ARGENIO: That's a good point that you bring up about ownership of the units and we're going to have to check into that cause I quite frankly am not sure either and this is the first time to be very honest with you John that I have been on the board that there's been an issue that's ongoing. And the main

concern of the town is obviously primary and foremost is the safety, health and welfare of the people that are living in the town and that if there's a fire and somebody dies or a fire that spreads to somewhere else that kills somebody as I said I'm not going to get into all the papers in front of me and what's in front of me is the date of this violation and the date of that violation. The fire inspector did call me today as I had asked him to do several weeks ago and what he told me is one unit is entirely condemned because it is unfit to be inhabited by human occupants and I don't know, again, I don't know if it's yours or somebody else's, I don't know, John.

MR. LEASE: I don't own anything.

MR. ARGENIO: Other two units that he rented almost identical fashion as you just said the meter panel had fallen off the trailer and was lying on the ground and I guess he issued you some sort of order to remedy that as well.

MR. LEASE: Right, and we had Brightlight Electric did all the work today.

MR. ARGENIO: They're going to take care of that?

MR. LEASE: One.

MR. ARGENIO: I understand there's one other unit that's a problem that you need to do something with, I don't recall what he said to me.

MR. LEASE: Well, I've got one unit left there that I own and the one that's condemned I don't own, one of many that's shut down, I need to renovate before he puts the electric on but we took care of the electrical violations on the outside.

MR. ARGENIO: Maybe that's the third one and he did say

for everybody's edification to me that the other I think four units that looked--

MR. SCHLESINGER: The one that you said is condemned you didn't own?

MR. LEASE: No, I got rid of all of them, I sold them all in the last two or three years.

MR. SCHLESINGER: Somebody owns a condemned unit?

MR. LEASE: Well, it's shut down, it needs total renovation.

MR. ARGENIO: Here's what I'm going to propose and I'm going to propose it to the other members, the history on this with this problem goes back to August 13 of 2008. That's when the first violation was issued. And I have probably I don't know three or four here that have been issued between now and then. I'm talking to the planning board members here, here's what I'm going to propose that you endeavor to continue on the road that you're on getting it straightened away with whatever the issue is, John, again, I'm not there, I'm not looking at it, garbage he told me about a heat tape underneath the trailer that pipe was leaking and it went through the heat tape and shorted it out and made a big black spot on the heat tape, I'm not an electrician, not a scientist and I don't pretend to be but as an example all of these issues all together would it be fair or is 30 days enough for you to take care of them so we can consider maybe issuing that permit?

MR. LEASE: Sure, and I think it's done as we speak I think it's already been done but yes.

MR. ARGENIO: There's issues, one is to grant the special use permit which allows the park to operate and exist with people in the homes and second issue is a

safety, health and welfare issue, the safety, health and welfare issue is addressed by the document in my hand that's a violation notice from the fire inspector. He's cited them as having unsafe structures on the site, inadequate plumbing and facilities and maintenance and inadequate mechanical equipment and problems with the electrical equipment, that's a fire inspector's issue, that's a safety, health and welfare issue, that's what they do. This board acts to grant the applicant trailer park owner the use of the special permit to continue to operate and this is exactly why this law's in effect, by the way, so you know now what we need is in my mind typically this board and I'm going by past history, we, if there are some minor violations and when I say minor a skirt missing, a unit needs a number on it, we typically speak to the applicant like we're doing, Mr. Lease, and they say okay, we'll take care of that and typically gets taken care of. My reason for suggesting that the applicant be given 30, I keep using the word applicant, that the owner I should say be given 30 days is first for a few issues here and while I have no reason to doubt what Mr. Lease says to me he's certainly a credible businessman in the community, I just want to make sure that the and I say I, I'm proposing to you guys I think we should make sure that the fire inspector that we can offer a one year approval with a clear head, that's what I'm suggesting, Neil, that's I guess that's where I'm going.

MR. SCHLESINGER: I understand and I agree with you but just for your protection, John, there's a unit there that's in bad shape, I don't know, this is the first time I've ever seen a violations since I've been on the board.

MR. ARGENIO: On trailer parks.

MR. SCHLESINGER: Yeah, so I don't know who the finger points at but one of the things it says unsafe

structure is found to be dangerous, I don't know who's responsible for that, you or them, and we want to work with you so we can give you the permit in 30 days so hopefully I don't know who the finger's going to point to, who should really check into that.

MR. ARGENIO: Howard, you have any thoughts?

MR. BROWN: Thirty days sounds reasonable.

MR. GALLAGHER: I agree, I'm in line with that.

MR. ARGENIO: I'm sure you understand.

MR. LEASE: So you want me to--

MR. ARGENIO: I don't want to offer special use permit for one year tonight, I think that it should be cleaned up and the violation notice should be cleaned up and we should get a note from the fire inspector saying it's taken care of planning board go ahead and proceed cause I think that's reasonable.

MR. LEASE: That's fine, I think it will be done tomorrow.

MR. ARGENIO: John, that would be fantastic.

MR. LEASE: I'll get it done and come back before the April meeting.

MR. ARGENIO: We don't have any applications for the April 15 meeting but we're going to have the April 29 meeting, we'll put you on the agenda for the 29th. Jen, would you see to that and hopefully we'll dispose of it then.

MR. LEASE: Thank you very much.

MR. ARGENIO: Thank you. There's another thing that



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Myra's told me that the deadline for submission for the April 15 meeting has come and gone, we only have one possible applicant and I don't see convening all the professionals, stenographer and all of us for one applicant unless the applicant had an extremely, unless that applicant had an extremely pressing issue, I don't see the necessity in doing that so we're going to cancel that meeting, Myra will send the notices out.

REGULAR\_ITEMS:

RAY'S\_TRANSPORTATION\_SITE\_PLAN\_(09-02)

MR. ARGENIO: Next is Ray's Transportation site plan on Argenio Drive. The application proposes change in use to convert the former lumber yard to a railroad tie product transportation station. The plan was previously reviewed at the 25 February, 2009 planning board meeting. That's not right, is it? You guys weren't here, were you in February? I think you were on the agenda and you asked to get off the agenda or some such thing.

MR. ROSENWASSER: That was earlier, I believe we were on the agenda.

MR. ARGENIO: Sir, can you state your name for the stenographer?

MR. ROSENWASSER: Stewart Rosenwasser for the applicant.

MR. VIEBROCK: Chris Viebrock for the Chazen Companies, engineer.

MR. ARGENIO: My point is you guys have never been formally before us.

MR. ROSENWASSER: I will apologize for the February 25, there was a mixup in the communication, we were not aware whether it was our fault we were not aware it was on.

MR. ARGENIO: Mr. Rosenwasser, we did have some issues during that too, I think we canceled one meeting, it had snowed.

MR. ROSENWASSER: It snowed, we withdrew one meeting, it snowed one meeting, in any event, we're all here and

we're ready.

MR. ARGENIO: Want to tell us?

MR. ROSENWASSER: I will, why don't you just go over the site plan and then I want to talk about some of the things and address some of the issues raised last time.

MR. VIEBROCK: Well, the site is accessed off Argenio Drive, property consists of essentially two properties, lot 45.1 and 45.2 consisting of approximately 9 acres, the property was the old Stephenson's Lumber site and the applicant has purchased the property and would like to move his operations currently from the Walsh Avenue over to this site. And the plan doesn't consist of any new structures, no site improvements, the only things shown on this plan are outdoor storage of railroad ties and metal fasteners that are associated with the railroad ties that would be removed from the railroad ties that are located, metal fasteners are over here and the railroad ties are on the asphalt. Some of the previous concerns we got from McGoe, Hauser & Edsall, the town engineer's office, was some issues with the drainage flow and where the patterns were going for it because there was a concern that the town has property over here and I guess there's some potential well locations over there. So we had revised the plan to show the general drainage pattern, there's no site improvements on the site, we're not planning any additional paving, no improvements to the drainage patterns generally flow towards the existing railroad tracks to the north and any runoff associated in the areas where the railroad ties would be stored would go to the existing railroad tracks to the north. There's a drainage channel that runs I believe to the east along the railroad in the direction. Any runoff that's associated going towards the town property does not have any of the railroad ties located and will not have on the railroad ties located on there for any concern on runoff. And otherwise if any other things shown on

the plan, the most of the railroad ties will be, tried to be stored underneath the existing buildings but there will be some outdoor storage of the railroad ties in temporary storage until they can be sorted, stacked and then moved into the buildings, post and beam buildings that are currently there and trucked off the site and so that's it.

MR. ARGENIO: I want to read this comment from Mark's comments, one area's indicated as, do you have Mark's comments there?

MR. VIEBROCK: Yes.

MR. ARGENIO: One area's indicated as a storm recharge area, this is a concern with regards to potential for creosote laden storm water discharging off the site or infiltrating into the ground with no protective measures. A previous study of creosote is a product, is a complex mixture of chemicals, it's my understanding, and I'm reading Mark's comments for the record, it's my understanding that this type use involves coal tar creosote which may involve approximately 300 plus chemicals in content possibly even thousands, chemicals in the mixture have been identified which may cause harmful health affects. There is a documented concern that creosote products can enter the groundwater and create the potential for contamination and toxicity. As such, the plan's total disregard for containment and treatment allowing the potential for uncontrolled discharge of possibly contaminated storm water runoff is of great concern to this writer. I can tell you this that I have spoken to the Supervisor about this railroad tie business and the railroad ties the creosote is a very big concern, it's a very big concern, I don't quite frankly know much about it but other than the railroad ties, telephone poles they typically don't use them anyway, we used to build walls out of them all over the place cause they wouldn't rot. Adam, do you have something on this?

MR. RODD: Yeah, there's a New York State statute effective January 1, 2008.

MR. ARGENIO: If I can just for one second for your edification just so you're completely up to speed the last meeting the one that you guys didn't come Dominic Cordisco was, we were aware he raised the issue with the, he did a little bit of research and at the end of the meeting during a discussion he said Ray's Transportation is not here and he shared some thoughts on the creosote and I said look when they come we'll address it.

MR. RODD: Well, to the extent you're aware of the law and in accordance with the engineer's comments, it is appropriate to contact the New York State DEC in connection with the proposed use of the property to the extent that it will involve the storage of railroad ties that do contain creosote to see if it's an allowable use.

MR. ROSENWASSER: Well, there's currently no regulations promulgated under 2725-03, none.

MR. ARGENIO: What's 2725?

MR. ROSENWASSER: It's the law referred to by counsel which prohibits the manufacture, sale or use of creosote ties after January 1 of the 2008. There was enough fanfare around its passage, obviously, it's a law designed for environmental purposes, it also requires all of the docks that are built with creosote piles to be removed by 2011, I believe or 2010 and a lot of people think this was just good lobbying by longshoremen who needed work and so it was vigorously attacked. And there's also a fair amount of dispute as to the science on the health hazards of creosote that have been used for some time but I'll leave that to another forum. As far as Ray's Transportation just so

you understand what he does, we don't consider this a change in use, its still a lumber yard, all he's really selling is lumber, it's not open for retail use, he does not manufacture, use or sell within the State of New York. What Ray's Transportation does and correctly note that the railroad is exempt because they are required to use railroad ties.

MR. ARGENIO: I didn't know if they were or weren't but sure seems there's a lot of railroad ties.

MR. ROSENWASSER: We're exempt under the law specifically and to be honest with you the railroad ties have to be disposed of because he buys from class 1 railroads which are commuter railroads and their requirements are much higher so these railroad ties are disposed of, they're just pulled up and thrown in the right-of-way of the railroads.

MR. ARGENIO: That's lawful?

MR. ROSENWASSER: That's what they do, the law requires that they be disposed of now in appropriate landfills or in some other way consistent with DEC regulations. But what he does is he buys them, he brings them to a site currently for the last 12 years here in New Windsor and he has operated without any violation, he sorts them, he grades them, he bundles them and ships them off site. Now he did prior to the enactment of this law have two people that he sold to within the State of New York, he obviously doesn't do that since January 1, 2008 in compliance, all the other things that he sells which is all lumber, by the way, just lumber, it's in the form of railroad ties, he ships them off site and they're sold at the point of the delivery. They are not sold in the State of New York for use, he does not use them here, he does not manufacture them here. The graded ones that are not salable he takes to co-generation plants outside the state for disposal, so what he's doing is really sort

of being a necessary component of the railroad's disposal, he doesn't dispose of them for the railroad, this is a separate business he does for sale outside the state, people don't come there and say I want to buy a bundle, he doesn't sell them to Lowes or Home Depot, doesn't sell them in the State of New York so we do not believe he is in any way in violation of the spirit or the language of this law in any way. And he's continued to operate here in New Windsor since January 1st of 2008 without and DEC's been on his site as far as to address some of these comments.

MR. VIEBROCK: The recharge, I actually I disagree with a comment that says that there will be drainage going towards of runoff that may contain creosote, we specifically--

MR. ARGENIO: Let me interrupt you, what I would like to do is I just I would like to make just one thing with you, Mr. Rosenwasser, I want to be careful in that we have from Mark's associate Eric who's very capable here and certainly if there's something that he needs to defer till Mark gets back we can do that but you have Mark's comments there, yes?

MR. VIEBROCK: Yes.

MR. ARGENIO: What I was just going to suggest is that I don't, again, we're a board here but I think the biggest concern from the town level and I know he's got a facility down on Walsh Road he appeared before this board about that facility quite a few years ago I think I was part of the board when--

MR. ROSENWASSER: '06-07.

MR. ARGENIO: The big concern is the leachate and the town does have two wells back there that are not active right now but in the event of water needs in the future they may choose to activate the wells, let me just

finish, as an extension of your comment, insomuch as the DEC does not have any laws that regulate this it seems as though you're implying that they wouldn't take exception to that and I'm okay with that. Adam, can we, what are the mechanics and we have done this before, I think I'm pretty sure, what are the mechanics of consulting or contacting the DEC somehow with this to see, have them send us a letter saying--

MR. DENEGA: A recommendation you mean?

MR. ARGENIO: Yeah.

MR. DENEGA: Even if they don't guide it by law but a recommendation.

MR. ARGENIO: Right, everybody's off the hook, they say it's okay, Ray's Transportation is off the hook, Mr. Rosenwasser is off the hook and the town is off the hook and it might be okay but I mean they stopped using them for a reason. Go ahead somebody.

MR. ROSENWASSER: Well, they did stop for whatever reason they felt appropriate they stopped using it but we're not in violation of this law, these ties exist in the State of New York, they are here in the State of New York and if Ray's Transportation who employs 35 people here in the town and just wants to move from a very short distance from where he currently operates he can ameliorate some of your terms by covering, simply by covering to avoid any leachate problem that you think there might be and the drainage is not towards your well field as demonstrated by the elevation.

MR. ARGENIO: I don't know where exactly the wells are.

MR. VIEBROCK: Even the recharge area, for example, the recharge is actually behind, this is the new I guess couple years back Stephenson's built this other building that was part of that construction and on



recommendation by Mr. Edsall was to provide drainage where we thought was the drainage and on the topo we provided it and anything south and there's areas of some broken up asphalt, some down south here by the recharge, we specifically placed the areas where we would be putting the railroad ties on the other side of the drainage divide to make sure that everything drained towards the existing railroad tracks, not towards the, anything draining to the storm water recharge would be some piles of some metal fasteners, not the creosote.

MR. ARGENIO: I'm a minority partner in the two properties next door and I don't even know where the wells are, I know they're back there from as a kid being back there on dirt bikes and such but I know there's, I think there's two of them and they're back there. Who has any thoughts?

MR. SCHLESINGER: I have a question and I sure as heck don't want to belittle the issue of the creosote because that's as obviously concern to us for different reasons, but did you not say in essence it's still a lumber yard?

MR. ROSENWASSER: When we submitted this and looked at all the uses, this is not something we need, we believe we need any kind of change of use or permit to operate, this is a lumberyard, all we're doing is selling.

MR. SCHLESINGER: Why are you here?

MR. ROSENWASSER: Because we did what was suggested to us and we did have a meeting with the town attorney and with the Supervisor before even coming here and we're just submitting--

MR. SCHLESINGER: The issue of the creosote?

MR. ROSENWASSER: I don't know that it was so much

that.

MR. ARGENIO: I think you guys are here by statute, Mr. Rosenwasser, unless I'm mistaken.

MR. ROSENWASSER: For site plan approval.

MR. ARGENIO: By statute under our laws for site plan approval, start piling things up and making piles, people driving by are going to make a phone call.

MR. DENEGA: Mark does reference this in the beginning of the comments as a change in use, although I haven't reviewed the code myself and his description of the project he references a change in use.

MR. ARGENIO: Okay, so lumberyard is A-13 under the Town Code and this use is classified as a B-3 use so as I said, it's by statute.

MR. SCHLESINGER: Okay.

MR. ARGENIO: Howard and Danny, you guys have any thoughts?

MR. BROWN: I'd like to get the state's definition on the creosote.

MR. ROSENWASSER: Well, if we're in violation of the statute we're in violation but we don't believe we are, this is specifically run in a way since January and it was run before and again it only had two New York businesses that he dealt with and sold within the state which he does not do, he does not have one customer that he sells one railroad tie or any associated within the state, they're taken off in trailer trucks, removed, these things would lay on the ground and be poached by people and there'd be no control over what happened to them, we believe this use is completely not only consistent but it's a beneficial use because these

things are not going in the ground, they're leaving the state, they're either going to a co-generation plant or being put to use somewhere where the law does not prohibit it.

MR. ARGENIO: Mr. Rosenwasser, I will say this again, you could very well be right about the law, I'm not an attorney and I won't pretend to be an attorney, that's what he does.

MR. ROSENWASSER: We did speak to Mr. Cordisco.

MR. ARGENIO: My sole concern was the leachate, that's my sole concern and it may not be an issue, maybe an issue, I don't know, I know one thing I know, I don't know enough about it to be able to say it's this or it's that. I know enough about it to be able to say I think it's a concern. Danny?

MR. GALLAGHER: I agree, I don't think the selling was the issue more or less the leaching.

MR. ROSENWASSER: As I read your minutes from your last meeting, the concern was that this was a use that was in violation of this new statute as of January 1, 2008 that and the fact that we weren't here were the two primary concerns last time.

MR. ARGENIO: I share that with you in all candor.

MR. ROSENWASSER: Yeah, that was the two concerns, I didn't see much in the minutes that dealt with the leachate, we know in speaking with the engineer that that was an issue and speaking with the Supervisor that's always been a concern regarding this and that's when the site plan was prepared in terms of placement of the product, the drainage trying to get as much covered as possible, it's possible to cover more with tarps which he does now, we have pictures.

MR. ARGENIO: Yeah, you brought up a good point, Mr. Engineer, in that there are buildings there that are open and that's--

MR. ROSENWASSER: And storage is under there.

MR. ARGENIO: I think it should be, I mean, if it's, if the DEC will allow this I think that we should seriously look at that, the storm water running underneath that so the runoff doesn't come in and perc through and run out.

MR. DENEGA: One concern as Mark and I were discussing this was the some of the items that you said are tarped as opposed to being under a structure and that could be somewhat of a concern the maintenance of the tarping and the converting on and off, you know, you flip it over, you may put it back on upside down, now the rain water's sitting in what used to be in the bottom.

MR. ARGENIO: Mr. Rosenwasser, I want to say to you too that this concern is not something that was made up overnight, yes, we have a problem back there now in that there's a plume, that was a plume, some sort of subsurface contamination, I don't know what type of contamination it is that was traced back to Dennison Monarch down the road, a business that's long gone, apparently they were washing some, cleaning filing cabinets with some chemical and it was fairly innocuous or what I assume to be fairly innocuous and it got in the ground and it's migrated and it's been detected in those wells and that's the genesis of this whole thing, actually, that's not the genesis, just trying to be proactive and on top of things is the genesis of this whole thing, no more, no less.

MR. ROSENWASSER: That's all certainly appropriate, you know, we don't have significant doubt that we're not in violation of the law in terms of the addressing the concerns about ameliorating the possibility of leaching

that can all be addressed, you know, I think in terms of what we have designed and what further steps can be taken in terms of coverage.

MR. ARGENIO: But by what, storing them in a structure?

MR. ROSENWASSER: Well, storing them under structures to the amount to the extent that the structures permit them, I mean, there's quite a bit of, but in all honesty, not every, I won't represent to you that all the railroad ties can be stored underneath, they're not in his current facility and DEC is down there now and they were doing their storm water waste management permits, now DEC is there and they're certainly aware and he's got piles of these ties outside that he sorts, bundles, he covers some of it and there's not as much coverage on the site he's on now what he would have here, not anywhere near and he's a hell of a lot closer to the river where he is now.

MR. ARGENIO: And your proposal I guess this proposal from what I've seen here I would call it a depot, is that right, like depot for railroad ties, bring them in and ship them out?

MR. ROSENWASSER: Sells them to out of state and delivers them out.

MR. ARGENIO: This project is within a 500 foot distance of New York State 32 and must be referred to the county planning, I'm sure you're aware of that. You know what I think, I think that you need to take those comments with you, Mark's comments and I think you need to take a look at them, you should address the storm water issue and I believe that we should, is it appropriate, Adam, for us to contact the DEC with this or is it more appropriate for the applicant to?

MR. RODD: Either one.

MR. ARGENIO: What do you guys think?

MR. SCHLESINGER: I think that we should.

MR. GALLAGHER: Absolutely, I think we should.

MR. BROWN: Yes, we should.

MR. ARGENIO: I think we should do that, just to get direction on this. And you know what, Mr. Rosenwasser, if everything's okay then it's fine, I mean, oh, Mark has it here too, I didn't, based on the information received from the planning board there appears to be regulatory and/or permitting authority for this use by the DEC, further clarification of this issue should be received from the applicant and we heard--

MR. ROSENWASSER: There is no permitting authority from DEC, it's only they permit the disposal, shall be disposed of in this state under 2725-03 being the statute we cited last time was 2725-03 regarding use, manufacture or sale in the state, it was a concern that it was being sold here.

MR. ARGENIO: It's leaving.

MR. ROSENWASSER: It's all sold outside the state and leaving here, it's not used so there's no and no regulations have yet been enacted under this section.

MR. ARGENIO: It would seem that based on what you're saying that first issue goes away pretty quickly and that's almost a non-issue.

MR. ROSENWASSER: Yeah, you're either in violation of the statute or you're not. If you're looking to dump these somehow to or take down a wall you can't do that without doing it in accordance with what DEC set out some approved place where they're disposed of appropriately but there's not something that the DEC

has to permit, I mean, if he went alongside the railroad, picked them up and put them on the truck and went out of state it doesn't involve the DEC at all.

MR. ARGENIO: It is noted that the property consists of two separate tax lots, the line is depicted on the plans. It is not normal practice for a site plan to be split with two tax lots, the board should discuss the need for accommodation of the lots as part of this application. What's the status of that, Eric, can you share some thoughts on that? It would seem you have two separate lots here.

MR. VIEBROCK: Same ownership, naturally you can do a lot consolidation as part of the whole process here.

MR. DENECA: It's standard practice to do that, it doesn't always happen with every application but it's recommended, I don't think it's mandatory but it's recommended.

MR. ARGENIO: I think you should do that.

MR. BROWN: Yes.

MR. ARGENIO: Danny, consolidate the lots?

MR. GALLAGHER: Yes, absolutely.

MR. ARGENIO: It's in keeping with our past practice, this board's past practice.

MR. ROSENWASSER: Consolidated as a condition of approval of the site plan?

MR. ARGENIO: Yes, it should be relatively innocuous.

MR. ROSENWASSER: Yes, just following a deed.

MR. ARGENIO: Mr. Rosenwasser, Myra says that the

information would have to go to her and she would do the assessor office to combine the lots.

MS. MASON: It has to go through the assessor's office.

MR. ROSENWASSER: It would be a condition of approval, not something we'd do in advance.

MS. MASON: But when you're ready to do that please bring it to our office and we'll bring it to the assessor and take care of the paperwork.

MR. ROSENWASSER: Absolutely.

MR. STACKHOUSE: Ray Stackhouse, Jr. vice president of Ray's Transportation. Just concerning the two lots it's always been two lots, we kept the two lots and we just figured maybe in the future we might want to rent half of it out, that's the reason we kept it two lots, I don't know, you guys are saying that you want to combine it, I don't know why.

MR. ARGENIO: Ray, I think the only reason is because it's been the past practice of this board is when an applicant occupies an entire piece of space it's always cleaner from a town point of view and tax point of view to have the whole thing as one lot. But I understand your point that you may want to rent part of it at some point in time, maybe I'll speak with Mark, no, I will speak with Mark about it and see if there's any issue with that but there is a reason we do it.

MR. STACKHOUSE: Whatever we have to do we'll do but that's the reason we left it two lots.

MR. ARGENIO: I can understand it.

MR. ROSENWASSER: So we wouldn't have to have two uses on one lot.



MR. ARGENIO: Let me have Mark review it and but Mr. Rosenwasser that's been our practice to try to clean things up.

MR. ROSENWASSER: It's certainly an easy enough thing to do if it becomes necessary to do.

MR. STACKHOUSE: Thanks.

MR. ARGENIO: Okay, what else do you guys want from us tonight? You have to go to county. Eric, did you speak to Mark about the state of fitness of these plans at this point in time relative to them being able to go to county?

MR. DENEGA: I don't think, I think in Mark's, I thought he mentioned it in here, yeah, he does comment number 5 he references must be referred to Orange County Planning, I don't think he will have an issue sending it the way it is now. There's obviously going to be some changes in accordance with his comments.

MR. ARGENIO: The sum and substance of what's there will be similar to what will be the final version at this point we'll get that off to county. Who does this DEC thing, Adam?

MR. ROSENWASSER: Just so we know what exactly is going to be referred to DEC and to answer what issue?

MR. RODD: Whether the proposed use which I understand it consists of storing at least some of these railroad ties.

MR. ROSENWASSER: Bringing them on site, storing them, well, not storing, well, it's a rolling, this stuff is not stored there for any length of time.

MR. ARGENIO: Store it, roll it.

MR. ROSENWASSER: Stuff goes in, comes, goes.

MR. RODD: It's going to be placed on the property for some period of time and the DEC and if you're right, again, I'm not the DEC, you're not the DEC and I think their regulations as they're written, I mean, there isn't the language this does not apply to them on site for any period of time, doesn't say that in those words, it's simply just to clarify with the DEC that the proposed use is not violative of this law as written.

MR. ARGENIO: No, not that law, that it's not an environmental issue where it's going to leach into the ground and cause a problem whether it's regulated or not so that if it is going to leach into the ground it's going to cause a problem I think Mr. Rosenwasser relative to the law has been pretty clear, I think you and Dominic have to figure that out, certainly sounds clear to me I think but again it's yours, you're the attorney, I think the main concern is that just the leaching of the creosote, I don't know if it's water soluble, I don't know if it's oil based, I don't know anything about it, just that you don't see them around anymore. Am I speaking for everybody?

MR. SCHLESINGER: Yeah.

MR. ROSENWASSER: I think if you get into the science of creosote, I mean, DEC would give an advisory opinion as to the efficacy of what he's doing vis-a-vis the creosote, you're going to get into some science there, this could turn into a significant science project.

MR. ARGENIO: You know, this board we tend not to get into all that business, we tend not to, I mean, I'm not going to mention any other towns. We tend not to get hung up on stuff like that but I want to make sure that you guys are clear and we're clear on this so there's no issues.

MR. DENEGA: Mr. Chairman, just look to simply, if you request that they verify there's no other permits required for the type of storage for this material and potentially request a recommendation on the containment, temporary containment of the material to prevent any hazardous affects on the environment, I think that should somewhat address what your concerns are in the letter to the DEC.

MR. ARGENIO: I think you're pretty close there, don't you guys think?

MR. SCHLESINGER: That's good.

MR. ARGENIO: I think you're pretty close there. What else would you like from us?

MR. ROSENWASSER: I don't think, I'd like to ask you for something else but I think we're premature but you know that's, I just want to be clear on exactly what we're doing because there was some misunderstanding.

MR. ARGENIO: It's got to be tied down and it's got to be tied down at that's it.

MR. VIEBROCK: There's going to be a circulation for SEQRA?

MR. DENEGA: That's under number 4 there DEC the Department of Health.

MR. VIEBROCK: Thirty days for lead agency?

MR. ARGENIO: Yes, Myra, you help Jen with that.

MS. MASON: Once we get that stuff from you then we'll send it out for the lead agency.

MR. VIEBROCK: You'll have it tomorrow.

MR. ARGENIO: Okay, thank you.

MR. ROSENWASSER: Again, I apologize for any inconvenience it may have caused at your last meeting.

MR. DENEGA: Is this off a state road? Is that not a state road?

MR. ARGENIO: No, it's at the end of the road where my office is.

MR. DENEGA: That's not close to 32?

MR. ARGENIO: It's within 500 feet of 32, that's why it's going to--

MR. DENEGA: I didn't know if you referenced DOT.

MR. ARGENIO: No, I don't think so.

MR. VIEBROCK: Railroad is between 32.

MR. ARGENIO: Railroad splits it in half.

MR. DENEGA: Okay.

MR. ARGENIO: I'll accept a motion that we circulate lead agency coordination letter.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: And we're going to include, Adam, part of this motion is that we're going to include authorization to Adam to write that letter.

MR. SCHLESINGER: So moved.

March 25, 2009

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MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

UNITARIAN\_UNIVERSALIST\_CONGREGATION\_AT\_ROCK\_TAVERN\_SITE  
\_\_\_\_\_  
PLAN\_(09-02)  
\_\_\_\_\_

MR. ARGENIO: Unitarian Universalist Congregation. Application proposes construction of a 6,512 square foot church building to replace 2,750 square foot building which was lost in the fire. The was plan was briefly reviewed at the 1 June, 2008, 15 October, 2008 planning board meetings. I'm going to read to you, please put your stuff up there and I'm going to read from Mark's comments. From a procedural point of view, the public hearing has been waived insomuch as this property is up in the woods in the Town of New Windsor on the west end, we have heard back from the county, they determined their comment was local determination, a SWPPP is not required insomuch as the disturbance is less than one acre and we'll talk about lead agency in a moment after Troy tells us the changes that he's made and the highlights of what he's done here. As I remember, the biggest issue was the sewer, is that right or the septic or is that not right?

MR. WOJCIEKOSKY: That's correct, Mr. Chairman. Troy Wojciekosky, Fuss & O'Neil, Engineers for the applicant. Since the last time we were here there were a couple minor comments regarding the site plan from the board and from the town engineer's office but you're right, Mr. Chairman, that one of the big outstanding issues was the septic system. We have since received approval from the health department for the septic system pending final soil testing that has to be completed when the soils are brought in for the system. The second probably largest issue was regarding the storm water which is related to the amount of disturbance on the site and we worked with town engineer's office to reduce the disturbance and kind of reconfigure a little bit of the parking to make it a little more compact to reduce the site disturbance below thresholds that would push it into a more sophisticated storm water management system per DEC

regulations. So we're basically able to simplify the site, reduce the disturbance, reduce any additional hard surfaces with the plan that you see here. So those were really the two big outstanding issues. The other issues were related to the refuse area, we pulled away from the building itself and we also met with the fire department and accommodated their requests. We ended up making a wider access along the front of the building that is as they requested and we have also noted that their entire access route including the gravel area meets a certain criteria from the fire code to support their vehicles. We have also run their vehicle through here on the computer to see that their largest fire truck can get in and out.

MR. SCHLESINGER: You have inadequate lighting for the seven parking spots opposite the entrance?

MR. ARGENIO: Let me just hit that, Neil, if I could and I'm only going to hit it because Mark is not here, Eric, are you aware of that issue cause I did speak about that in detail with Mark.

MR. DENEGA: Yeah, I just seem to think that it required a little bit of shifting of one light and addition of one other light.

MR. ARGENIO: Yeah, Troy, the essence of that comment and I'm going to read it to you we previously pointed out from Mark's page, Fran, we previously pointed out that inadequate lighting is provided for the seven parking spaces on the site, the main entrance, no corrections were made. Further review indicates the handicapped parking lighting is inadequate. We recommend this be corrected with an addition of a fixture at the spaces on the site, the building entrance and the light in front of the building be shifted to the handicapped area. Troy, I'm going to show you, I spoke with him in great detail with this, this light, Mark would like to see that light pulled

over here where it's necessary and he'd like to see another light over here somewhere and it can be included in that same circuit so if we depending on how far we get if you get subject to you need a light here and light over here, you guys see that on page C-120 there's a light just below the handicapped parking and it doesn't really light up the handicapped parking, lights up that kind of bumped out island there. So what Mark suggested if he moves that light closer to the handicapped parking and installed another light at the end of the handicapped parking that would certainly be sufficient. Is that acceptable to you, Troy?

MR. WOJCIEKOSKY: That's acceptable.

MR. ARGENIO: Troy, Neil was asking about the lighting in the rest of the lot, wasn't there some double fixtures in there too instead of singles?

MR. WOJCIEKOSKY: No, we just have single fixtures, we wanted to provide the minimum amount of lighting considering it's in a residential area and considering that there's going to be very limited nighttime activities, try to keep it to a minimum. I do agree that we should provide additional lighting for the handicapped access points and the front sidewalk area that seems to make sense but for the most part we try to keep the minimum amount of light foot candle that we thought was adequate for safety.

MR. ARGENIO: Is there a dropped curb here or is there any curb?

MR. WOJCIEKOSKY: There's no curb.

MR. ARGENIO: It's not curbed, okay. Let me ask you this, Troy, the area where the handicapped parking is, do you have a concrete sidewalk?

MR. WOJCIEKOSKY: Yes, that will be a concrete



sidewalk.

MR. ARGENIO: And you have pavement?

MR. WOJCIEKOSSKY: Correct.

MR. ARGENIO: You should have bumpers in those stalls, do you have bumpers?

MR. WOJCIEKOSSKY: I don't.

MR. ARGENIO: I think you should consider that.

MR. GALLAGHER: Yeah, especially if there's no curb.

MR. ARGENIO: This is the church up on the hill, do you guys know where this is? The one that burnt down, I can smell it from my house.

MR. WOJCIEKOSSKY: I think that's a good idea.

MR. ARGENIO: You should consider that. Let me read this to you from Mark's comments and he also shared with me that this is, was also pretty minor but it as comments from Mr. Fayo that needs attention, he will require a pair of inlet catch basins on the driveway at its intersection with Vance Lane, the town standard is 15 inch HDPE, you need to do that.

MR. WOJCIEKOSSKY: That's not a problem.

MR. ARGENIO: Okay, per the fire inspector's office they would like the following note added to sheet 510, driveway meets fire apparatus access road requirements per Section D102.1 of the New York State Fire Code. And I have approval from fire here, Orange County is approved. Planning board will require that a bond estimate be submitted for the key site improvements of this site plan in accordance with Chapter 137 of the Town Code. Applicants are advised that a list of

acceptable unit price is available from the engineer, that would be Mr. Edsall. We have received a copy of the latest comments from Orange County Department of Health which are very minor in scope. And I'm reading from Mark's comments, Franny, it's my opinion that the applicant's approval can have a condition attached to it that they correct the minor comments from Department of Health. That's Mark Edsall's comments. If I remember correctly, guys, the biggest thing here was the sanitary that was the big issue with this thing, lot of these other things are really minor. There are no other involved agencies in this application. If somebody sees fit, I'll accept a motion that we declare ourselves lead agency.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency under their SEQRA process for the Unitarian Universalist Congregation site plan.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: If anybody sees fit, I'll accept a motion that the Town of New Windsor Planning Board declare negative dec on this application.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that

the Town of New Windsor Planning Board declare negative  
dec for the Unitarian Church. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Danny, do you have any other comments on  
this?

MR. GALLAGHER: No.

MR. ARGENIO: We hit the lighting.

MR. GALLAGHER: Minor things that we cleaned up.

MR. ARGENIO: Neil, do you have anything?

MR. SCHLESINGER: No.

MR. BROWN: On the lighting issue did you give any  
consideration, I think Neil brought this up about using  
solar lighting?

MR. WOJCIEKOSKY: Yes, we have the lighting on the  
outskirts, phase 2 lighting we have as an alternate  
solar powered fixtures, it might make sense  
particularly all the way around there.

MR. ARGENIO: That's a good idea. One comment about  
that solar lighting we've had some issues with it not  
being quite as bright as everybody would like it so I  
think the Supervisor is trying to find out a capable  
manufacturer of it that can give us something a little  
more luminescent, it's not become problematic but it's  
something that we still continue to pursue.

MR. WOJCIEKOSKY: It's typical with the solar powered ones they're not quite as bright.

MR. ARGENIO: That's been a bit of an issue so we need to be careful with that in the area, they have a lot of pedestrian traffic, it's still out there as a viable tool and it saves energy so we certainly should be thinking about it. Anybody have anything else?

MR. DENEGA: Can I just clarify on Mark's comments? There's one typo under number 6 the fourth bulleted item references comment number 4 it should read comment number 5 which is a list of technical comments to be made as a condition of approval when that time is correct.

MR. ARGENIO: Yeah, well I'll tell you what I'm going to do, I'll read those subject-tos in and I'm going to be kind of generic if that's okay, I'll accept a motion for final on this.

MR. SCHLESINGER: I'll make a motion for final approval to the Unitarian Congregation subject to the subject-tos.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the subject-to and I'm going to keep it very simple, Mark's comments and the comments, the minor comments from DOH and that you and I'm not going to read his comments that you include the catch basins and the pipe for Mr. Fayo. So Troy you're going to have to get with Mark on the comments, you're going to have to get a bond together, get with Mark, get the fees together, the term on that bond is three years from the date of the C.O. so you know. Roll call.

ROLL CALL

March 25, 2009

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MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

CKN\_MYLONAS\_INC\_-\_SUITE\_202\_RENOVATIONS\_SITE\_PLAN\_AND\_  
SPECIAL\_PERMIT\_(09-14)

MR. ARGENIO: CKN Mylonas Inc. site plan. This application proposes modification of an existing office building that would be the building next to the I think it's the, what was known as the Vails Gate Diner for quite some time to the north of that to add a caretaker's apartment. Plan was reviewed on a concept basis only. Sir, can I have your name for the record?

MR. THOMPSON: Joseph Thompson from Minuta Architecture here on Mylonas.

MR. ARGENIO: Tell us what you'd like to do.

MR. THOMPSON: You have already stated it, there's an existing office building that's been business use in nature since it was built mid '70s mainly for professional offices and what the applicant wants to do is put a caretaker's apartment on the second story which is permitted by code, this is a design shopping zone within Windsor Highway via special permit of the planning board which is why we're here tonight. It's really a pretty straightforward application, I believe the only complication we had in the workshop process that we worked out with Mark was some of the parking, some existing parking you see it on S-2 we have got a new parking plan.

MR. ARGENIO: You look at that, guys, that's kind of the meat of the parking issue.

MR. THOMPSON: Does not work as it's currently proposed here and was approved back in 1981, I believe no back-up space behind some of the back-up parking spaces, kind of odd, so we took that parking lot and reconfigured it to work the format up to current town standards 9 x 19 spaces, made sure we have our two handicapped spaces and got a working format here and

really designed this parking lot to how it's used on an every day basis, as we occupied a suite in that building ourselves, so we lined the parking on the street across the front, increased access to the building by relocating the handicapped spaces over to there and just ensured that all parking spaces were up to current codes and increased the functionality of them. There was a marriage between the two lots, I'm going to call it, that was approved back in 1981 where the diner parking lot which is always owned by Mylonas Inc. used to be Vails Gate Diner is allowed to share parking facilities, so this lot is actually underneath the current agreement dependent upon a few spaces on the diner's lot so we went through that with Mark, we're actually decreasing the amount of parking needed for this because the requirement for office space looking at one space per 150 square feet of office spaces we're now taking 600 and change square feet of office space and converting that to an apartment which only needs two spaces so we're actually decreasing the amount of spaces, we're not losing any, the two lots require 79 spaces, there's currently 80, we're retaining 80 just by reallocating the spaces.

MR. ARGENIO: The main issue is parking, you didn't sense that?

MR. SCHLESINGER: I'm somewhat familiar with it but I can't picture it, you can drive from the diner to the front of this building now but you may want to go back, turn it over again, parking space 10 and 9 isn't there a drive-thru there, will that interfere with the drive-thru from the diner?

MR. THOMPSON: The diner's not really a drive-thru, you're not talking about pickup?

MR. SCHLESINGER: No, no, I mean, there's an access.

MR. ARGENIO: What he's referring to is this 10 and 9.

MR. SCHLESINGER: No, I'm referring to the new parking plan on top 9 and 10 is that, you know, is that a drive-thru area there?

MR. THOMPSON: That is, yes, a lot of people actually do come from this lot and use this other curb cut.

MR. SCHLESINGER: So maybe you may want to put some, what are the little bumpers?

MR. ARGENIO: Neil, you know what's going to happen, turn it over please, if you put them over here if somebody's not parked in there somebody's gonna whack them.

MR. GALLAGHER: Nine is replacing 15.

MR. SCHLESINGER: So it's the same thing.

MR. ARGENIO: Actually, if you look there's the front of the one building here's the front of other building so the tendency is to not drive through that.

MR. SCHLESINGER: I was trying to picture that.

MR. ARGENIO: I'm not going to read Mark's comments on parking, suffice it to say that the change in parking works and he's in substantial agreement with everything that the applicant's engineer just said. Unfortunately, sir, and I'm sure Joe Minuta knows this you probably do too because of your proximity to 32 you have to go to the county.

MR. THOMPSON: Yes, I was going to ask that.

MR. ARGENIO: The plan was submitted today so I think you have 30 days, is that right?

MS. MASON: Yeah, unless we hear from them before.



MR. ARGENIO: And you also because of what's going on with the parking you need to have a mandatory public hearing which because you have to go to county really shouldn't bottleneck you up too much.

MR. THOMPSON: We were aware.

MR. ARGENIO: I will accept a motion that we schedule that.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Maximum permitted building height would appear to be 15.9, not 15.1, tell us about the dumpster, there's no dumpster shown on the plan, does one exist? Is one needed? That's a question to the members and to the applicant?

MR. THOMPSON: The dumpsters they're shown not on this site there's two dumpsters in the rear here, there's another dumpster on the diner lot again that serves our building.

MR. ARGENIO: Can you show that on the plan?

MR. THOMPSON: That's right here, it's shaded.

MR. ARGENIO: It there's--

MR. THOMPSON: It is there, it's labeled, it's a little difficult to read but we're dependent upon the diner's lot to facilitate.

MR. GALLAGHER: So the caretaker's going to be using that?

MR. THOMPSON: Yes, they would be using that.

MR. ARGENIO: Neil brings up a good point, what about the fact that your dumpster's on the, on that property, suppose that changes hands, New Windsor Coach Diner comes in and says get that dumpster out of there.

MR. THOMPSON: Right now because of the parking agreement is in place I don't think the lots can be sold separately without a review to revoke that.

MR. ARGENIO: I think you should show the dumpster on your own property, Neil is a hundred percent right and you have an arrangement with the diner that allows you to put it back in the hatched area, nobody's complaining, Jennifer's office will not hear from anybody and probably be okay but I didn't see that but you should show it on your property, you need to do that, I think Neil is 105 percent correct. Anybody have anything else here? No other involved agencies here, I'll accept a motion that we declare ourselves lead agency.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I don't think we have anything else here. Am I missing anything guys? Adam, have I missed any procedural issue?

MR. RODD: No.

MR. ARGENIO: Eric, do you have anything else?

MR. DENEGA: No, I think that's it.

MR. ARGENIO: Thank you for coming in, sir. We'll see you, get with Jen and get yourself squared away for the public hearing so we can do a circulation and we'll put you on as soon as we can.

MR. THOMPSON: Thank you.

MR. ARGENIO: Motion to adjourn?

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE

March 25, 2009

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MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

